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April 21, 2022

**VIA CM/ECF**

Honorable P. Kevin Castel  
United States District Judge  
United States District Court for the  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: *Yakult U.S.A. Inc. v. R. R. Importaciones Inc.*, Case No. 22-cv-01826(PKC):  
Initial Pretrial Conference Letter of Plaintiff Yakult U.S.A. Inc.**

Dear Judge Castel,

This law firm represents Plaintiff Yakult U.S.A. Inc. ("YUS") in the above-referenced action. The initial pretrial conference is scheduled for April 28, 2022 at 11:30 a.m. YUS submits this initial pretrial conference letter without the input of Defendant R. R. Importaciones Inc. ("Defendant"), which has not responded to the complaint or made any other appearance in the case.

**Description of the Case**

This action arises from Defendant's unauthorized importation, distribution, and sale of Yakult probiotic beverages that were not intended for sale in the United States. YUS is the exclusive manufacturer and distributor of Yakult throughout the United States and has the exclusive right to produce, package, market, distribute and engage in any other commercial conduct related to Yakult in the United States. Defendant, a specialty grocery importer and distributor of Mexican brands, has sold Yakult probiotic beverages manufactured by Yakult S.A. de C.V. ("Unauthorized Yakult") to numerous East Coast grocery stores and markets, including in New York City. YUS has asserted the following claims to recover damages arising from Defendant's gray market sales and to prevent its further distribution and sale of Unauthorized Yakult: (1) violation of Section 43(a) of the Lanham Act, (2) Deceptive Trade Practices under New York General Business Law § 349, (3) False Advertising under New York General Business Law § 350, and (5) Unfair Competition.

**Contemplated Motions**

The Clerk entered a Certificate of Default against Defendant on April 13, 2022. ECF No. 15. YUS is preparing a motion for default judgment, which it intends to file in the next month or so.

**Prospect for Settlement**

Because Defendant has not responded to the complaint or YUS' attempts to contact it, YUS is unable to address the prospect of settlement or complete the Case Management Plan and Scheduling Order at this time.

Respectfully submitted,

Squire Patton Boggs (US) LLP

s/ Adam R. Fox  
Adam R. Fox

*Attorneys for Plaintiff Yakult U.S.A. Inc.*